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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT TACOMA

8 CURLIN PENNICK III,

9 Plaintiff,

v.

10 BARRY DEHAVEN,

11 Defendant.

CASE NO. C18-5434 BHS

ORDER ADOPTING REPORT  
AND RECOMMENDATION

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13 This matter comes before the Court on the Report and Recommendation (“R&R”)  
14 of the Honorable David W. Christel, United States Magistrate Judge, Dkt. 93, and  
15 Plaintiff Curlin Pennick III’s (“Pennick”) objections to the R&R, Dkt. 95.

16 On July 25, 2019, Judge Christel issued the R&R recommending that the Court  
17 grant Defendant’s motion for summary judgment because Pennick has failed to establish  
18 a material question of fact for trial. Dkt. 93. On August 7, 2019, Pennick filed  
19 objections. Dkt. 94. On August 8, 2019, Pennick filed amended objections. Dkt. 95

20 The district judge must determine de novo any part of the magistrate judge’s  
21 disposition that has been properly objected to. The district judge may accept, reject, or  
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1 modify the recommended disposition; receive further evidence; or return the matter to the  
2 magistrate judge with instructions. Fed. R. Civ. P. 72(b)(3).

3 In this case, Pennick objects on the basis that he did establish a material question  
4 of fact whether the eggs provided with his religious diet are Kosher. The problem with  
5 Pennick's argument is that Judge Christel recommended granting Defendant's motion  
6 even if it was determined that the eggs were not Kosher. Dkt. 93 at 8–10. Judge Christel  
7 concluded that at most Pennick is prevented from eating two to four eggs per week but  
8 still receives meals that meet the threshold for caloric intake. *Id.* As such, this minimal  
9 burden does not result in a substantial burden on his ability to practice his religion. *Id.*  
10 The Court agrees with this conclusion. Therefore, the Court having considered the R&R,  
11 Pennick's objections, and the remaining record, does hereby find and order as follows:

- 12 (1) The R&R is **ADOPTED**;
- 13 (2) Defendants' motion for summary judgment is **GRANTED**;
- 14 (3) Pennick's *in forma pauperis* status is **REVOKED** for purposes of appeal;
- 15 and
- 16 (4) The Clerk shall enter a JUDGMENT and close the case.

17 Dated this 10th day of October, 2019.

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20 BENJAMIN H. SETTLE  
21 United States District Judge  
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